

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference KEDI 8307WO	FOR FURTHER ACTION	
	See item 4 below	
International application No. PCT/US2005/003397	International filing date (<i>day/month/year</i>) 28 January 2005 (28.01.2005)	Priority date (<i>day/month/year</i>) 29 January 2004 (29.01.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant EVEREST BIOMEDICAL INSTRUMENTS CO.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
2. This REPORT consists of a total of 4 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I Basis of the report
<input type="checkbox"/>	Box No. II Priority
<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI Certain documents cited
<input type="checkbox"/>	Box No. VII Certain defects in the international application
<input type="checkbox"/>	Box No. VIII Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

	Date of issuance of this report 31 July 2006 (31.07.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Philippe Becamel e-mail: pt12@wipo.int
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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REC'D 27 JUN 2005

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

Date of mailing **22 JUN 2005**
(day/month/year)

FOR FURTHER ACTION

See paragraph 2 below

Applicant's or agent's file reference

KEDI 8307WO

International application No.

PCT/US05/03397

International filing date (day/month/year)

28 January 2005 (28.01.2005)

Priority date (day/month/year)

29 January 2004 (29.01.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61B 5/04, 5/05, 5/00 and US Cl.: 600/544, 300, 377, 345

Applicant

EVEREST BIOMEDICAL INSTRUMENTS CO.

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Navin Natnithithadha Telephone No. (571) 272-2975
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/03397

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

a sequence listing
 table(s) related to the sequence listing

b. format of material

in written format
 in computer readable form

c. time of filing/furnishing

contained in international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.

3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US05/03397

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>12</u>	YES
	Claims <u>1-11 and 13-20</u>	NO
Inventive step (IS)	Claims <u>12</u>	YES
	Claims <u>1-11 and 13-20</u>	NO
Industrial applicability (IA)	Claims <u>1-20</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-11 and 13-20 lack novelty under PCT Article 33(2) as being anticipated by Fischell et al, US 6,360,122 B1.

In regards to claim 1-11, Fischell teaches an implantable "system" 10 (see fig. 2):

"logic circuit" 50;
"interface" 30 configured to receive bioelectric signals from implanted electrodes 15;
"signal sampling circuit" 34;
"transceiver" 60 to communicate an output signal or data over a "wireless link" 72;
"external signal processing system" 11;
an implantable "common matrix" 20 including the logic circuit 50, the sampling circuit 34, and the transceiver 60;
"power distribution means" 90 receiving power from a "wireless link" 72 (see col. 12, lines 57-67);
"capacitor circuit" 610 coupled to an "antenna" 630;
"integrated circuit" or "VLSI" circuit (see col. 14, lines 62-67);
"signal amplification component" 32; and
"electrical winding" (external coil) (see col. 12, lines 59-62).

In regards to claims 13-20, Fischell teaches the subject matter of the method as claimed in using the implantable system 10.

Claim 12 meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest an organism containment cage, the electrical winding disposed in proximity to the organism containment cage to generate an electromagnetic field within the organism containment responsive to the controlled flow of electrical current from the electrical power source.